IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 886 OF 2007

IN

SUIT NO.2747 OF 2005.

Dineshkumar Tribhuvandas Shah & Ors. ...Plaintiffs.

V/s.

Yesubai Gopinath Dadarkar & Ors. ...Defendants.

Mr. P.M.Shah for the plaintiff.
Mr. Rakesh Kumar i/b. Legal Vision for defendant nos. 3 to 5.

CORAM : S.J. VAZIFDAR J.

DATE : 16TH JULY, 2007.

P.C. :-

1. Defendant nos. 3 to 5 have taken out the Chamber Summons to quash and to set aside and to modify the order of the Court Receiver dated 24th April, 2007 fixing the final royalty.

2. The Court Receiver was appointed by an ad interim order dated 20th October, 2005 in Notice of Motion No. 3054 of 2005 taken out by the plaintiff.

3. The Notice of Motion was ultimately dismissed by an order dated 19th March, 2007. The plaintiff thereafter took out Chamber Summons NO. 992 of 2007 for amendment which has been allowed by a separate order passed today. In view of the observations made in the order dated 19th June, 2007

finally disposing of Notice of Motion No. 5404 of 2005, it would not be appropriate for the Court Receiver to demand any royalty at this stage. The plaintiff intends taking out a fresh Notice of Motion pursuant to the order of amendment in Chamber Summons No.992 of 2007. Whether defendant nos.3 to 5 ought to pay royalty or not can be decide only after orders are passed on the fresh Notice of Motion to be taken out by the plaintiffs. In view of the order dated 19th June, 2007 the present fixation of royalty/requirements of payment of royalty cannot be stand.

4. In the circumstances, the Chamber Summons is made absolute in terms of prayer (a).